

**Town of Concord  
Special Town Meeting  
November 5, 2007**

Pursuant to the Warrant signed by the Selectmen on October 10, 2007, Town Moderator Edward N. Perry called the Special Town Meeting to order at 7:00 pm on Monday, November 5, 2007 at the Concord-Carlisle High School. The Moderator declared that the meeting was properly called and that a sufficient number of voters were present to permit the meeting to be opened.

On a **MOTION** made by Margaret Briggs and duly seconded, the following was **VOTED** with a show of hands and so declared by the Moderator:

That this meeting be held in the Concord-Carlisle Regional High School Auditorium, the Cafeteria, and if necessary, the Gymnasium, and that the halls be connected by means of a public address system and loudspeakers so that the proceedings in the halls can be heard and participated in by all voters present in any hall, and that the proceedings in all halls constitute parts of one and the same Meeting, all as authorized by §10 of Chapter 39 of the Massachusetts General Laws.

Mr. Perry announced that he had appointed John H. Clymer and George M. Dallas to be Assistant Moderators, and Carolyn C. Flood to be the Deputy Moderator. Mr. Dallas will preside in the Cafeteria, and Mr. Clymer in the Gymnasium, if necessary.

To make sure that Ms. Flood has full authority to serve as Deputy Moderator, and on a **MOTION** made by Margaret Briggs and duly seconded, the following was **VOTED** with a show of hands and so declared by the Moderator:

That this meeting elect Ms. Carolyn Flood as the Temporary Moderator to preside over this meeting if the Moderator elected by the Town is unable to serve in that position.

The Assistant Moderators and Deputy Moderator had previously been duly sworn to the faithful and impartial discharge of their duties. Mr. Perry expressed gratitude to the High School Principal Peter Badalament, the Regional School Committee, and the high school staff for accommodating us. Mention was made of the availability of "green cards" for citizens to volunteer to serve on a town committee or board. Mr. Perry reminded attendees of the importance of being familiar with the Town Meeting procedures materials – "Moderator's Notes for the 2007 Special Town Meeting," "Town Meeting in a Nutshell" and "Concord Town Meeting Tradition and Procedures."

Dr. Susan H. Curtin was introduced as the Town Meeting Procedure Resource Person. Fire Chief Ken Willette reviewed the evacuation procedures in the event of an emergency. Mr. Perry noted the appointment of George Sprott as Head Teller, and Todd Crocker and Abraham Fisher as Assistant Head Tellers. In the event a vote is taken using a secret ballot on any vote, the ballot counting will be under the supervision of David Allen, Ballot Supervisor and Mark Myles, Assistant Ballot Supervisor. The Tellers and Ballot Counters were sworn in to faithfully and impartially perform their duties.

Voters were reminded to keep their Voting Slips handy, since they would be used for all votes. Girl Scouts and Boy Scouts brought forward the flags and the assembly stood for a moment of silence. Mr. Perry reminded all to reflect on how, through this Town Meeting, we and our

neighbors provide for our common good. He reminded us that the passions of the moment are not always the best guide for our conduct in the future, and that if sacrifice by a few is required, the sacrifice should be only where the common goal is worthy of the sacrifice. He asked all to approach each issue with an open heart and mind. He asked that each of us maintain a saving sense of humor, so that the debates at this Town Meeting will not be a source of division among us when our business is completed.

Mr. Perry reviewed the role of the Technical Resource Coordinator, David Mickey, with assistance from Cline Frasier. He thanked the many employees and volunteers who worked hard preparing for this Town Meeting. He offered special thanks to Town Meeting Coordinator Laurel Landry.

On a **MOTION** made by Margaret Briggs and duly seconded, the following was **VOTED** on a show of hands and so declared by the Moderator:

That the reading of the Warrant and the Return of Service thereon be omitted.

Mr. Perry reviewed the anticipated schedule and procedures for the evening's agenda. He noted that if someone calls for a vote to be taken on a question, he will attempt to have any outstanding questions answered prior to taking the vote. No motion is expected under Article 6.

At 7:18 pm discussion began under Article 1.

### **SECRET BALLOT VOTING PROCEDURE**

**Article 1.** The following **MOTION** was made by Anne D. Shapiro and duly seconded:

That the 2007 Special Town Meeting adopt the following Rule for the conduct of the 2007 Special Town Meeting:

On any vote at this Meeting, the vote shall be taken by secret ballot if 100 voters present at the Meeting so request before the Moderator calls for a vote to be taken.

After discussion, a vote was taken on a show of hands, and the **MOTION FAILED TO PASS** and so declared by the Moderator. Therefore, a majority vote will be required in order to vote by secret ballot at this Town Meeting.

At 7:23 pm, the Meeting took up the business under Article 2.

### **MEETING PROCEDURE**

**Article 2—MOTION 1.** On a **MOTION** made by Tom Anzer and duly seconded, the following was **VOTED** on a show of hands and so declared by the Moderator:

That the Town adopt a "Rule of the Meeting" Resolution as follows:

**Resolved:** That in order to assure compliance with the requirements of the Massachusetts General Laws Chapter 59, §21C, this Meeting hereby adopts the following Rule of the Meeting:

## **RULE OF THE MEETING**

### **1. Articles for appropriations supported from current taxation and/or available funds**

Any motion made under a warrant article or a motion to amend that would increase the appropriation amount over the amount recommended by the Finance Committee and designated by it as the "allocation at Levy Limit," or that would provide for an appropriation where the Finance Committee is recommending NO ACTION, must specify the following:

- A. The original motion or a motion to amend shall specify the amount of increase over the appropriation recommended by the Finance Committee and the source of funding – whether from available funds, taxation within the levy limit, or contingent upon approval of an override ballot vote following the conclusion of Town Meeting if such ballot is voted by the Board of Selectmen in accordance with state law;
- B. If the proposed increased appropriation is proposed to be funded from taxation within the levy limit, the original motion or motion to amend shall specify the source of funding as:
  - 1. a reduction in the appropriation amount already voted under a previous article or within the article currently being considered; or
  - 2. a maximum amount that may be appropriated within the Levy Limit under a subsequent article in the warrant.

### **2. Articles for appropriations supported from borrowing**

The Finance Committee shall report to the Meeting summarizing its recommendations for new tax-supported borrowing authority to be offered at this Meeting and for which the debt service is proposed to be funded within the Levy Limit.

Any motion made under a warrant article or a motion to amend that would increase the appropriation amount to be met by a borrowing authorization over the amount recommended by the Finance Committee or that would provide for an appropriation to be met by a borrowing authorization where the Finance Committee is recommending NO ACTION, must specify the following:

- A. the original motion or a motion to amend shall specify the amount of increase over the appropriation recommended by the Finance Committee and shall make the increase contingent upon approval of a debt exclusion or capital outlay exclusion ballot vote following the conclusion of Town Meeting if such ballot is voted by the Board of Selectmen in accordance with state law;

or

- B. the original motion or motion to amend shall include a corresponding and offsetting reduction in another borrowing authorization from among those listed by the Finance Committee, either by a reduction in the amount already voted under a previous article or by setting a maximum amount of debt that may be authorized within the Levy Limit under a subsequent article in the warrant.

### **3. Articles making appropriations to be kept open**

All Articles making appropriations shall be kept open until the final adjournment of the Meeting.

## CONSENT CALENDAR

**Article 2—MOTION 2.** The following **MOTION** was made by Tom Anzer and duly seconded:

To adopt the Consent Calendar as printed on the front page of the Concord Journal last Thursday.

Mr. Perry then explained the Consent Calendar procedure, which contains only one motion under Article 11 about a Home Rule Petition which was passed under Article 42 of the 2004 Annual Town Meeting, but requires “refreshing” since it has not yet received state legislative approval. The motion seeks authority for the Town Treasurer to accumulate funds for a post-retirement group health insurance trust fund and specifies investment authority to make this a worthwhile endeavor. The Board of Selectmen and Finance Committee unanimously recommended affirmative action. Mr. Perry asked if any voters wished to remove Article 11 from the Consent Calendar. Hearing no objections raised, a **VOTE** was then taken on Mr. Anzer’s above motion, which **PASSED BY A TWO-THIRDS MAJORITY** and was so declared by the Moderator. The **MOTION** which therefore passed under Article 11 was as follows:

### **HOME RULE PETITION AUTHORIZATION TO ESTABLISH A POST-RETIREMENT GROUP HEALTH INSURANCE TRUST FUND**

#### **ARTICLE 11.**

To authorize the Board of Selectmen to petition the General Court for a Special Act authorizing the Town of Concord to establish a Post-Retirement Group Health Insurance Trust Fund for the purpose of meeting the future costs of premiums payable by the Town on behalf of retired employees and the eligible surviving spouses or dependents of deceased employees pursuant to the provisions of Chapter 32B of the Massachusetts General Laws and Acts in amendment thereof or in addition thereto.

Said fund shall be under the supervision and management of the Town Manager and under the custody of the Town Treasurer, but the Town Manager shall be authorized to employ any qualified bank, trust company, corporation, firm or person for investment management and custody purposes as an expense of the fund. Said fund shall be credited with all amounts appropriated to it or otherwise made available to the Town.

The Town Manager may also employ or contract for actuarial services as an expense of the fund. Actuarial services obtained in support of the purposes of the fund may include but shall not be limited to the following: (a) measurement of the present value of future benefit attributable to the year earned, and (b) establishment and periodic updating of a schedule of funding levels required to amortize the existing initial unfunded actuarial liability over a period not in excess of thirty years and to amortize any additional unfunded actuarial liability over a period not in excess of fifteen years from the year of the determination in which such additional liability is first recognized. Such information shall assist in determining the recommended annual appropriation to the fund.

The assets of the fund may be invested by the Treasurer in accordance with the Prudent Investor Rule and any earnings or interest accruing from said investments shall remain with the fund and shall be expended only for the purposes of the fund, subject to appropriation.

At 7:30 pm, the Meeting took up the business under Article 3.

### **TRANSFER OF FUNDS FROM BEEDE CENTER ENTERPRISE FUND TO GENERAL FUND**

**Article 3.** On a **MOTION** made by Christopher Whelan and duly seconded, the following was **VOTED** on a show of hands and so declared by the Moderator:

To transfer the sum of \$30,000 from the Beede Center Enterprise Fund to the General Fund.

At 7:33 pm, the Meeting took up the business under Article 4.

### **SAWYER TRUST GIFT**

**Article 4.** On a **MOTION** made by Christopher Whelan and duly seconded, the following was **VOTED UNANIMOUSLY** on a show of hands and so declared by the Moderator, with grateful thanks to the Trustees of the Sawyer Trust and to all who made this generous gift possible:

To transfer to the custody of the Trustees of Town Donations the sum of \$300,000 or any other sum that may be accepted by the Board of Selectmen as a gift from the Trustees of the Alfred Sawyer Trust, to be used to create an endowment for the Beede Swim & Fitness Center, the principal to remain intact and the income of said endowment to be made available by the Trustees of Town Donations upon request of and expended under the direction of the Town Manager for the operation and maintenance of the Beede Center; and further, that the Town vote to transfer to the custody of the Trustees of Town Donations the sum of \$1,700,000 or any other sum that may be accepted by the Board of Selectmen from the Trustees of the Alfred Sawyer Trust to create an expendable fund for sustainable energy and other resource-conserving initiatives for town buildings, said funds to be expended under the direction of the Town Manager, in accordance with certain terms and conditions to be agreed upon by the Board of Selectmen and the Trustees of the Alfred Sawyer Trust.

At 7:37 pm, the Meeting took up the business under Article 5.

### **NEW WILLARD SCHOOL**

**Article 5.** The following **MOTION** was made by Peter Fischelis and duly seconded:

That the Town vote to appropriate the sum of \$29,400,000 for the purpose of constructing and equipping a new Willard School, said funds to be expended under the control of the Town Manager, and further, that the sum of \$1,215,000 shall be set aside for construction bid contingency; and further, that to meet this appropriation the Treasurer with the approval of the Board of Selectmen be authorized to borrow \$29,400,000 under Massachusetts General Laws Chapter 44 or Chapter 70B, or any other enabling authorities; provided that no debt hereunder shall be issued unless the amounts required to pay for the principal of and interest on the bond and notes are voted by the Town to be exempt from the limitation on total taxes imposed by Massachusetts General Laws Chapter 59, §21C (Proposition 2½).

The Selectmen (on a 3-2 vote) recommended affirmative action, with Greg Howes making the presentation on behalf of the majority of Selectmen. Dinny McIntyre presented the minority

opinion of the Selectmen. The Finance Committee unanimously recommended affirmative action. After considerable discussion, at 9:15 pm David McIntosh made a **MOTION TO CALL THE QUESTION** that was duly seconded. A **VOTE** was taken and Mr. McIntosh's **MOTION PASSED BY A TWO-THIRDS MAJORITY** and was so declared by the Moderator.

A **VOTE** was then taken on Mr. Fischelis' original motion, which **PASSED BY AN OVERWHELMING TWO-THIRDS MAJORITY** on a show of hands, and was so declared by the Moderator.

### **ZONING BYLAW AMENDMENT SPECIAL PERMIT FOR FINANCIAL AND BUSINESS OFFICE ON GROUND FLOOR**

**Article 6.** No Motion was made under this Article.

At 9:19 pm, the Meeting took up the business under Article 7. After making the Motion under Article 7, which was duly seconded, Planning Board member Mark Bobrowski presented the Planning Board's recommendation and report on Article 7. The Selectmen unanimously urged support. A vote was then taken.

### **ZONING BYLAW AMENDMENT – SPECIAL PERMIT CRITERIA**

**Article 7.** Upon a **MOTION** made by Mark Bobrowski and duly seconded, the following was **VOTED BY A TWO-THIRDS MAJORITY** on a show of hands and was so declared by the Moderator:

To delete the last sentence of the first paragraph of §11.6 Special Permit in the Concord Zoning Bylaw, and add the following new second paragraph, which defines the criteria for the grant of a special permit. The existing second paragraph will become the third paragraph under §11.6.

Special permits shall be granted by the Board or the Planning Board, unless other criteria are otherwise specified herein, only upon the written determination of either board, as applicable, that the adverse effects of the proposed use will not outweigh its beneficial impacts to the public interest, the town and the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any other specific factors that may be set forth in this Bylaw, the determination shall include consideration of each of the following:

- 11.6.1. Impacts on economic or community needs;
- 11.6.2. Traffic flow and safety concerns, including parking and loading;
- 11.6.3. Adequacy of utilities and other public services;
- 11.6.4. Impacts on neighborhood character;
- 11.6.5. Impacts on the natural environment; and
- 11.6.6. Fiscal impacts, including impacts on town services, the tax base and employment.

At 9:25 pm, Mr. Perry asked for a show of hands as to whether the assembly wished to "push through" and finish the business of this Town Meeting tonight, or if it wished to not take up any new business after 10:00 pm, and reconvene on Wednesday, November 7. There was overwhelming support to finish tonight.

## AMENDMENT TO DEMOLITION DELAY BYLAW

**Article 8.** Upon a **MOTION** made by Deborah Bier and duly seconded, the following was **OVERWHELMINGLY VOTED**, and so declared by the Moderator:

To amend the Demolition Delay Bylaw, by adding in §8 to the table entitled "Demolition Review: Buildings and other structures deemed historically valuable, but not protected by Local Historic District designation" the following:

|                   |           | Prior<br>NL | NR | SR | LD | SO | TO | Structure |
|-------------------|-----------|-------------|----|----|----|----|----|-----------|
| 711 Virginia Road | Hangar 24 | 3           |    | Y  |    | Y  |    |           |

At 9:36 pm, the Meeting took up the business under Article 9.

### COMPLETION AND PUBLICATION OF ENVIRONMENTAL ASSESSMENT AND IMPACT STUDY REGARDING BRUCE FREEMAN RAIL TRAIL (by petition)

**Article 9.** The following **MOTION** was made by Daniel Latham and duly seconded:

That the Town vote that before completing or submitting to the State a "25% Design" for any abandoned railroad right-of-way conversion project to a rail trail, the Town must complete an environmental study, in accordance with the standards of the Massachusetts Environmental Policy Act (MEPA), of the environmental impacts of the design, construction and use of the trail, publish the study in draft form, have a comment period, and publish the study in final form.

Presentations were made by sponsors Mr. Latham and Burt Adelman; Jim Terry (Bruce Freeman Rail Trail Advisory Committee); Dean Sullender (Friends of Bruce Freeman Rail Trail); Jill Appel (A Rail Trail for Everyone); Peggy Briggs (Board of Selectmen); and Al Easterday (Natural Resources Commission). Tom Anzer, Chair of the Finance Committee asked Mr. Perry whether the Rule of the Meeting was violated, since a source of funding was not identified. Mr. Perry responded that funds are not being requested in Article 9, and he does not feel that the petitioners need to identify a source of funds at this time. The request is for additional work to be completed. In the event that funds are required to complete the environmental study, then a request for funds could come before a future Town Meeting.

After considerable discussion and comments from the general public, at 10:39 pm Henry Haughton made a **MOTION TO CALL THE QUESTION**, which was duly seconded. Before taking a vote on Mr. Haughton's motion, Mr. Perry asked for responses to the outstanding questions. At 10:41 pm a vote was taken on Mr. Haughton's motion, which **PASSED BY A TWO-THIRDS MAJORITY** on a show of hands, and was so declared by the Moderator.

A vote was then taken on Mr. Latham's original motion, which was **OVERWHELMINGLY DEFEATED** in all three rooms on a show of hands, and was so declared by the Moderator.

**REQUIREMENT FOR CITIZEN APPROVAL REGARDING BRUCE FREEMAN RAIL TRAIL  
25% DESIGN  
(by petition)**

**Article 10.** The following **MOTION** was made by Richard Waters and duly seconded:

That the Town vote that the Town obtain a majority vote at Town Meeting approving the design specified in the so-called "25% Design" for the conversion of any abandoned railroad right-of-way into a "rail trail" before submitting to the State said "25% Design."

Presentations were made by sponsors Mr. Waters and Holly Boyle; Elissa Brown (Bruce Freeman Rail Trail Advisory Committee); Stuart Johnstone (Friends of Bruce Freeman Rail Trail); Judy LaRocca (A Rail Trail for Everyone); Peggy Briggs (Board of Selectmen); and Al Easterday (Natural Resources Commission). After considerable discussion and comments from the general public, at 11:34 pm Carroll Sandel made a **MOTION TO CALL THE QUESTION**, which was duly seconded. A vote was then taken on Mr. Sandel's motion, which **PASSED BY A TWO-THIRDS MAJORITY** on a show of hands, and was so declared by the Moderator. A vote was then taken on Mr. Waters' original motion, which was unclear on a show of hands. A standing count was then taken, which started at 11:36 pm.

At 11:45 pm, with the standing count under Article 10 completed, a **MOTION** to adjourn was duly made and seconded and **APPROVED** on a show of hands.

**[Note: Article 11 – Previously voted under Article 2, Consent Calendar.]**

At 11:48 pm, once the counted voted was tabulated and finalized, Mr. Perry announced the results under Article 10, which **FAILED TO PASS**, with 259 voting in favor and 264 opposed.

The Special Town Meeting was dissolved at 11:48 pm.

Respectfully submitted,

Anita S. Tekle  
Town Clerk

**ATTENDANCE:** 1,283 voters in attendance